

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LEONARD JENKINS,

Plaintiff,

v.

GARY C. MOHR, et al.,

Defendants.

Case No. 2:14-cv-248

JUDGE GREGORY L. FROST

Magistrate Judge Norah McCann King

ORDER

This matter is before the Court for consideration of the Magistrate Judge's April 4, 2014 Order and Report and Recommendation (ECF No. 6) and Plaintiff's May 9, 2014 Objections (ECF No. 15). When a party objects within the allotted time to a report and recommendation, the Court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

In his objections, Plaintiff argues that the Magistrate Judge erred in concluding that dismissal of Plaintiff's claim based on the alleged inadequate grievance process is warranted because there is no constitutional right to an adequate grievance procedure. Plaintiff asserts that the Magistrate Judge's reliance on Sixth Circuit authority is incorrect because "the cases that the Magistrate relied upon in her R&R rely on cases that came from the 1980 era." (ECF No. 15, at Page ID # 97.)

Having conducted a *de novo* review and after consideration of the Order and Report and

Recommendation and the objections, this Court concludes that Magistrate Judge's reasoning is correct. Plaintiff fails to credit the fact that the Sixth Circuit cases upon which the Magistrate Judge relies are controlling. Both of these appellate cases cite to cases pre-dating the Prison Litigation Reform Act of 1995, but both cases involve fact patterns that fall under the Prison Litigation Reform Act of 1995 era. *See Walker v. Mich. Dep't of Corr.*, 128 F. App'x 441, 445-46 (6th Cir. 2005); *Overholt v. Unibase Data Entry, Inc.*, 221 F.3d 1335, 2000 WL 799760, at *3 (6th Cir. 2000) (unpublished table decision). Thus, the court of appeals has held that the principles culled from the older authority is relevant to the post-1996 context and that there is no constitutional right to an adequate grievance procedure under the Prison Litigation Reform Act of 1995. This Court is not free to ignore the binding Sixth Circuit precedent.

Based on the foregoing, the Court **OVERRULES** Plaintiff's Objections (ECF No. 15), **ADOPTS** the Magistrate Judge's Order and Report and Recommendation (ECF No. 6), **DISMISSES** Plaintiff's claim based on the alleged inadequate "Administrative Tribunal" and "Grievance Process," and **DISMISSES** Defendants Mary Lawrence and Mona Parks from this action.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE